

AO 120 (Rev. 2/99)

TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court Northern District of California on the following ☒ Patents or ☐ Trademarks:

DOCKET NO. CV 09-05926 MEJ	DATE FILED 12/17/09	U.S. DISTRICT COURT Northern District of California
PLAINTIFF ETAGZ INC		DEFENDANT QUIKSILVER INC
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,298,332		
2		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK
1	
2	
3	
4	
5	

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wicking	(BY) DEPUTY CLERK Gloria Acevedo	DATE December 21, 2009
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

COPY

ORIGINAL
FILED
09 DEC 17 PM 4:00
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MEJ

SAN FRANCISCO DIVISION

ETAGZ, INC.

Plaintiff

v.

QUIKSILVER, INC.

Defendant.

Case No.

09

5926

COMPLAINT FOR PATENT
INFRINGEMENT

DEMAND FOR JURY TRIAL

Plaintiff, Etagz, Inc. ("Etagz"), by and through its attorneys, complains of Defendant, Quiksilver, Inc. ("Quiksilver"), and alleges as follows:

NATURE OF THE ACTION

1. This is an action for willful patent infringement by Quiksilver of Etagz' United States Patent No. 6,298,332 (the "'332 Patent") entitled "CD-Rom Product Label Apparatus and Method." The '332 Patent relates to an apparatus and method for attaching a computer readable medium as a label to merchandise at retail. Etagz notified Quiksilver in September 2006 of the '332 Patent and Quiksilver's infringing activity. Quiksilver represented to Etagz in approximately January 2007 that Quiksilver had only used computer readable material ("Product Label") in connection with the retail tag for one product and that Quiksilver would shortly be ceasing the use

1 of the Product Label and had no plans to continue the use of such Product Label. Instead,
2 Quiksilver has resumed its infringing activities of the '332 Patent.

3 **PARTIES**

4 2. Etagz, Inc. is an Indiana corporation, with its principal place of business in Provo,
5 Utah.

6 3. Etagz owns and has all right, title and interest in the '332 Patent including the right
7 to sue for and collect damages for past, present or future infringement and therefore has standing to
8 sue for infringement of the '332 Patent.

9 4. Quiksilver is a Delaware corporation with its corporate headquarters located at
10 15202 Graham Street, Huntington Beach, California.

11 **JURISDICTION**

12 5. This is a claim for patent infringement that arises under the patent laws of the
13 United States, including 35 U.S.C. §§271 and 281. This Court has exclusive subject matter
14 jurisdiction under 28 U.S.C. §1338.

15 **VENUE**

16 6. Etagz is informed and believes, and on the basis of that information and belief,
17 alleges that Quiksilver has committed acts of infringement within this judicial district and has a
18 regular and established place of business located in San Francisco, California which is within this
19 judicial district. Venue is proper in this district pursuant to 28 U.S.C. §1391 and §1400(b).

20 **COUNT ONE**

21 **Patent Infringement 35 U.S.C. §271 et seq.**

22 7. Etagz incorporates by this reference as if fully set forth herein paragraphs 1 through
23 6 inclusive.

24 8. The '332 Patent relates to an apparatus and method for attaching a computer
25 readable medium as a label to merchandise at retail.

9. In September 2006, Etagz provided Quiksilver with actual written notice of the '332 Patent and Quiksilver's infringing activity. Shortly thereafter, Quiksilver agreed to cease and desist Quiksilver's infringing activity.

10. Despite notice and knowledge of the '332 Patent, Quiksilver resumed infringing and continues to infringe at least claims 16 and 17 of the '332 Patent. Among other things, Quiksilver has advertised, sold and offered to sell, and induced others to make, use and/or sell or offer to sell products and/or services throughout the United States, including within this judicial district, that are covered by the claims of the '332 Patent.

11. Quiksilver's direct infringement has injured Etagz and Etagz is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

12. Quiksilver's infringing activities have injured and will continue to injure Etagz unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further infringement of the '332 Patent.

Wherefore Etagz prays for relief as set forth below:

PRAYER FOR RELIEF

Wherefore Etazg requests that on Count One judgment be entered against Quiksilver and its subsidiaries and affiliates and all persons in active concert or participation with them as follows:

A. An entry of final judgment in favor of Etatz against Quiksilver;

B. An award of damages adequate to compensate Etaz for the infringement that has occurred according to proof at trial, but in no event less than a reasonable royalty as permitted by 35 U.S.C. §284, together with prejudgment interest from the date the infringement began;

C. An injunction permanently prohibiting Quiksilver and all persons in active concert or participation with it, from further acts of infringement of the '332 Patent;

D. Increased damages as permitted under 35 U.S.C. §284 for willful infringement;

E. A finding that this case is exceptional and award Etagz reasonable attorneys' fees and costs as provided by 35 U.S.C. §285; and

1 F. Such other and further relief as this Court or a jury may deem proper.

2 **JURY DEMAND**

3 Etagz demands a trial by jury on all issues so triable.

4 Dated: December 17, 2009

Fergus, A/Law Office

5 By: 
6 _____

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14 *Pro Hac Vice* Application to be filed